

WHAT YOUR ATTORNEY WANTS YOU TO KNOW NOW THAT YOU ARE ON PROBATION

Now that you are on probation, it is important that you understand your rights and legal responsibilities—this booklet will help answer some of your questions. You should discuss your questions with your attorney.

Your Attorney: _____

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Your Probation Expires: _____

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July 1, 2012

ABOUT THIS BOOKLET

This Booklet covers OREGON LAW. It was written in July of 2012, and does not include changes in the law made after that date. This Booklet is based on Multnomah County (Portland) probation practices. Practices in other counties may be different.

There is a **LIST OF LEGAL WORDS** at the end of this booklet to help you understand some of the legal terms used in this booklet and in court.

We have done our best to ensure the accuracy of this booklet, but you should always talk to your lawyer, if you have one, to get answers to questions about the information found in this booklet. This booklet is meant to inform you, **not give you legal advice.**

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One of the best things you can do to succeed on probation and avoid going to detention or juvenile prison is to develop a good relationship with your JCC.

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If you are having problems following the rules of your probation, call your attorney and get help – before it is too late!

ACKNOWLEDGEMENTS

We wish to acknowledge the work of Rakeem Washington, Attorney, in preparing the first draft of this booklet.

We also appreciate the assistance of Candace Johnson, Juvenile Court Counselor, for helping us understand probation in Multnomah County and the probation services of the Multnomah County Juvenile Department.

Sydney Boling & Jaclyn Leeds

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WHAT IS PROBATION?

Probation is the most common consequence of being found guilty or having pled guilty to having committed a crime. When you are on probation, the judge has found you guilty of a crime and eligible to be imprisoned in a juvenile correctional facility (a prison for juveniles). Being put on probation instead of into a juvenile correctional facility means you are being given a chance to show that you can follow the rules that the judge has ordered for you. If you follow your rules of probation (also called conditions) you will not have to spend time in a juvenile correctional facility.

Probation is usually formal probation – where you have a Juvenile Court Counselor (JCC) assigned to supervise you on probation and watch that you are following your probation rules. The JCC is the same as a probation officer in adult cases. On formal probation you will have a number of probation rules you must follow.

Probation can also be informal probation or bench probation, where you probably won't have a JCC assigned to you, but if you get in trouble again you may be given an additional punishment for the offense for which you are on informal or bench probation. The maximum time you can be on probation is five years, but probation cannot go beyond your 23rd birthday.

WHAT IS THE JUVENILE COURT COUNSELOR'S ROLE?

Your JCC is like a probation officer assigned to monitor your compliance with your rules of probation. Your JCC will meet with you regularly – these meetings are required and you can get an informal sanction or a probation violation for failing to meet with your JCC. Your JCC will talk with you and your family about your progress on probation. Your JCC will also talk to your school about your school attendance and compliance with school rules. Your JCC will get you enrolled in treatment programs and get reports on how you are doing in treatment. If your JCC gets information that you have broken any of the rules of your probation, your JCC can file a probation violation petition – asking the judge to find that you have violated your probation rules.

WHERE WILL I LIVE WHILE ON PROBATION?

Can I live at home while I am on probation?

Yes, in most cases youth on probation continue to live at home. However, if the judge feels that your home is not a safe and stable place for you, or that you will not follow the rules of your probation and improve your conduct if you remain at home, the judge can order you to live elsewhere.

Where else could the judge order me to live?

The judge may order you to live in and complete a residential treatment program, live in a group home, live in foster care, or live in temporary housing. As in probation while at home, the judge will require that you follow some rules and requirements. You will still have to follow the rules of probation in addition to the rules at your placement.

Temporary Housing. Temporary housing is a county placement supervised by the juvenile department. There are three places where your JCC may place you for up to 60 days:

- Boys & Girls Aid Shelter
- Maple Star
- Victory Outreach Shelter

Foster Homes. If the judge thinks you have problems that won't be helped at home, the judge may send you to a foster home—the home of someone who is not your parent. Foster home placement can be short-term, like temporary housing, or longer-term. Generally, you will be able to have visits with your family while you are in foster care. To be placed in a foster home your legal custody must be given to another agency and you will get another person from that agency who will be involved in your case.

If you have a problem with your foster home, call your lawyer, your JCC, your caseworker, your OYA worker, or another adult who can help you. If you run away from your foster home, a warrant most likely will be issued for your arrest. When you are caught, you will most likely be brought to juvenile detention.

Group Homes. Group homes are like foster homes – a place you live for a period of time. Group homes have a number of youths. Each group home is different. Your group home may have parents and other children, or it may be staffed by people who are paid to supervise you. Your JCC or caseworker is supposed to find a group home that will accept you. Your group home should have services for any special needs you may have. Generally, you will be able to have visits with your family while you are in a group home.

Residential Treatment. If the judge thinks drug or alcohol addiction, physical or sexual abuse, or mental or physical disability contributed to the reasons you broke the law, the judge may send you to a treatment program. Treatment programs are designed to treat your problems to prevent any further violations of the law. Some treatment programs are residential, which means you live at the treatment program. Other treatment programs

allow you to go to treatment during the day, and go home, to foster care, or to a group home at night. Tell your lawyer if you think treatment will help you and if you have had treatment before.

How much time will I spend in a residential treatment, foster home or group home?

There is no definite answer because you will be allowed to go home when your JCC or the judge decides that you have been rehabilitated. Many group homes have a “program” that the youth must complete. The sooner you finish the program, the sooner you can leave the group home.

Who will be in charge of my residential treatment, foster care, or group home placement?

You are always supervised by your JCC. If your placement is through the Department of Human Services (DHS) or the Oregon Youth Authority (OYA), you will also have a worker from that agency supervising you.

What if I have a problem where I am living?

It is VERY important to try to fix the problem. If you have a problem, get help from an adult--your JCC, your lawyer, or your family. It is a bad idea to run away. If you run away, the judge will issue a warrant for your arrest. You may spend more time in juvenile detention or even in a juvenile prison.

WHAT ARE THE CONDITIONS OF MY PROBATION?

When you are placed on probation, the judge will give you rules to follow in order to be allowed to stay on probation and not be sent to a juvenile correctional facility.

Standard Conditions of Probation are conditions which apply to all probations and include:

- Remaining in contact with your JCC. This means that you must
 - o Keep all appointments with your JCC and do what they direct you to do.
 - o Truthfully answer any questions from the JCC relating to your probation.
- Obeying all laws.
- Not running away from home or placement.
- Attending school and obeying school rules.

- Paying any restitution - repaying money to the victim for personal injury or damages or loss of the victim's property. This may be ordered by the judge.
 - If you do not pay all of your restitution by the end of your probation, the judge may extend your probation, or the judge may cut your required restitution in half. If the judge decides to cut the restitution, you may still have to pay that money to the victim in the form of a civil judgment.
- Paying fines and fees, which the judge may require you to pay
- Not possessing any weapons or firearms
- Staying in Oregon unless your JCC gives you written permission to leave the state. Do not move without first telling your JCC and providing them with your new address.
- Obeying the rules of your parent, guardian or caretaker and not leaving without permission.
- Not using drugs or alcohol
- Often, when you are on probation you have a "search condition." A "search condition" means that the police or your JCC can search you, your house, or your car, at any time, without reason or warning and without a warrant.

You may also be given special conditions of probation which can include:

- Community service: The judge may give you a set number of hours of community service to perform. Community service is work you do for the good of the community without any pay. This work is basically volunteer work for a public agency like a school or the Parks Department, or with an organization that does good work. If you do not know of a non-profit agency or church where you can do your community service, ask your JCC to help you find a place to do your community service.
- Having a special curfew.
- Having no contact with victim(s) unless approved by JCC.
- Being asked to do mental health and/or drug and alcohol assessments. While on probation, you may have to attend drug and alcohol treatment, or participate in mental health counseling.
- Restrictions on who you may associate with – this could include co-defendants, or other youth who are in gangs.
- Writing a letter of apology to the victim.
- You may also be placed on Community Detention (CD) or Electronic Monitoring (EM) for a period of time—see below for more details.

If you were adjudicated on a sex offense, you will likely have additional special conditions including:

- Successfully completing a sex offender assessment, treatment and/or education program which may include

individual or group therapy.

- Taking polygraph examinations.
- Not babysitting, including for siblings and children of friends, even if you aren't getting paid.
- Not having unsupervised contact with children of a specified age.
- Having your DNA taken (a swab of your cheek) for an offender registry, and sex offender registration.

Programs you may be required to participate in:

- **Project Payback:** This program is an opportunity to volunteer on work sites in a crew of 8-9 youth and a staff member to earn money to repay the victim(s) of your crime or any fines you may have to pay. The money you earn, \$50 a day for 6 hours/day, will be sent directly to the victim(s) or will go to pay any court fees. If you do not have another place to do your community service, you can also do community service hours through Project Payback.
- **Assessment/Treatment for Youth & Families (ATYF):** This program is intensive family counseling where a court therapist will go to your home 3x/week for 3-6 months to do counseling with you and members of your family.
- **Residential Alcohol & Drug (RAD):** In this program, you will live in the detention facility for 3-6 months while participating in a rehabilitative drug and alcohol program. If you are assigned to this program, you can decide to leave the program, but you must wait 48 hours after you make that decision to leave the secured facility, and your JCC may file a probation violation petition if you were ordered to participate in the program.

You must comply with all the conditions of your probation. If you break any of these rules of probation you can be punished, resulting in time in juvenile detention, out-of-home placement, or even commitment to a juvenile correctional facility. You can be kept on juvenile probation for up to five years, but not past your 23rd birthday.

COMMUNITY DETENTION & ELECTRONIC MONITORING

A judge may order you to be on Community Detention or Electronic Monitoring for a short period of time while you are on probation. Both of these programs provide intensive supervision while you are in your home.

What is Community Detention (CD)? When you are on CD:

- Community Detention staff will come to your house as often as twice a day to check in with you.

- At first, you will not be allowed any unsupervised time in the community. As you comply with the conditions of your probation, you may be allowed some unsupervised time.
- You must call the Community Detention staff several times a day, depending on how long you have been on Community Detention and how well you have followed your conditions.
- You will have a 7 PM or 8 PM curfew every night of the week (including weekends).
- You can only be out in the community for more than 3 hours or past curfew when you are with a parent or guardian.
- Every time you leave your home you will have to call the Community Detention Staff to let them know you are leaving and when you will return.

What is Electronic Monitoring (EM)? When you are on EM:

- You will wear a bracelet around your ankle that will tell the court when you leave your house.
- You will not be allowed to leave the house for any reason (except school, doctors, your lawyer and court appointments) without permission from your Juvenile Court Counselor or Community Detention staff (your lawyer or your parent cannot give permission for you to leave).
- If you are given permission to leave the house, you must call the Community Detention Staff before leaving the house and when you return.
- You will have to make 4 check-in phone calls a day.
- You will be visited at least once a day by Community Detention staff.

How long will I be on the program?

- You will be on the program until you return to court or until a date that the judge orders that you are no longer on the program. Your lawyer can ask for you to come back to court if you are doing well on the program to see if the judge will remove you from the program earlier.

What happens if I follow all the rules?

- If you follow all the rules, you may be allowed to make fewer phone calls and have fewer home visits.
- If you continue to do well for at least 30 days you may go back to court and be removed from the program.

What happens if I do not follow the rules?

- You will be in violation of your probation. See below for consequences.

PROBATION VIOLATION AND REVIEW

What can happen if I break any rules of my probation?

If your JCC thinks you are breaking any of the rules of your probation, s/he has a choice about what to do:

- Your JCC can impose consequences on you such as community detention/electronic monitoring, more frequent reporting to the JCC, more frequent UA's, community service, stricter rules, earlier curfew, grounding, etc.
- Your JCC can file a probation violation petition asking the judge to give you time in detention, give you more time on probation (extend your probation), or asking the judge to revoke (take away) your probation and send you to a juvenile correctional facility. You may be held in detention for up to eight days as a punishment for breaking probation rules.

What happens once a probation violation petition is filed?

Once your JCC files a probation violation petition, 1) you may be taken into custody until the hearing, and 2) you will have a hearing in front of the judge with your attorney to determine whether you indeed violated the conditions of your probation, and if so, what the consequences will be. You may decide with your attorney to admit that you are guilty of violating your probation. If you do not admit guilt, the district attorney will need less evidence (called a preponderance of the evidence) than was required to prove you guilty of a crime (called proof beyond a reasonable doubt).

If the judge decides you are innocent of committing a probation violation, there are no consequences and you will most likely remain on probation if you have more probation time to finish. If the judge decides you are guilty of committing a probation violation, the judge will give you a consequence.

In determining what consequence to give you, the judge will hear from all of the parties including your JCC, the district attorney, your parents or guardians, your attorney and you. After hearing from everyone, the judge will decide what the consequences are for your probation violation.

What is probation review?

The judge always has the ability to review your probation, and put additional services in place to help you succeed on probation. A probation review may be scheduled at the beginning of your probation to occur in 30—90 days. Your probation will not be revoked at this review hearing.

THE END OF PROBATION

You should have a probation expiration date given to you when you are initially placed on probation. This date can be extended for probation violations. If you perform well on probation and complete all of your probation conditions and requirements, including your restitution, your probation will likely expire at the probation expiration date. Occasionally, if you do exceptionally well on probation by completing all conditions and requirements early, avoiding probation violations and staying in good communication with your JCC, you and your attorney can ask the judge to terminate your probation earlier than the probation expiration date. Talk with your attorney if you feel that you are a good candidate for early termination of probation.

Once probation is terminated you are no longer under the supervision of your JCC. However, it is still important to follow many of the rules you had while on probation—for example, no drinking alcohol or using illegal drugs, obeying all laws and no possession of firearms. Breaking these rules (and some others) could lead to new delinquency charges.

GETTING YOUR RECORD DESTROYED

Depending on your crime, you will be able to get your record destroyed after you have completed probation and a period of time has passed during which you have had no new crimes. This is called expungement. Once your record is expunged, you do not have to report the expunged record on job applications and in other situations. It is very important that you get your record expunged if possible—it can affect your ability to get jobs in the future. Get information from your attorney about when and how to get your record expunged.

LIST OF LEGAL TERMS

Attorney—Also called lawyer, legal counsel, counselor at law, attorney at law—a person trained and licensed to provide legal advice and representation.

Attorney-Client Privilege—the right to keep your attorney from disclosing or being forced to disclose confidential communications from you, the client.

Bench probation—your probation is monitored by the court rather than a Juvenile Court Counselor

Burden of proof—how much evidence the prosecutor has to prove to find you guilty or in violation of probation. The burden of proof is a preponderance for probation violations, which means the judge needs only a slight amount more evidence that you are guilty rather than innocent of the violation to find you guilty.

Charge—an accusation that you have committed a crime or probation violation. This is also called an allegation.

Client—a person who has hired or had appointed an attorney to give her/him advice and representation.

Community Detention—also called CD – a program of the juvenile department, where staff monitor youth released from detention before their trials to assure that they do not commit new crimes and to assure that they show up for their trials. You can also be required to comply with CD after you are put on probation.

Community Service—work you do in the community for no pay, in order to pay back the community for the expense of having you involved with the juvenile court.

Conditional Postponement—a postponement of your trial during which you follow conditions, so that the petition against you can be dismissed.

Constitution—the fundamental law adopted when our country was founded to guarantee rights and freedoms to the people.

Consult—talking with your attorney to get advice about your case.

Contract—an agreement, usually in writing, that commits the signers to performance of acts set out in the contract, *i.e.*, providing representation and paying the attorney.

Controlled substances—legal and illegal drugs which are illegal to possess, use, or sell.

Conviction—the result of a trial or plea where you are found guilty. In juvenile cases this is called adjudication.

Court-Appointed Attorney—an attorney who contracts with and is paid by the government to provide representation for youth accused of crimes.

Crimes—an act or failure to act that is in violation of a criminal law.

Criminal Law—the law identifying crimes.

Cross-Examination—questioning of a witness by the attorney for the opposing side.

Delinquency—a juvenile delinquency case is when a person under eighteen is charged with a crime in juvenile court.

Department of Human Services (DHS)—the part of the state that supervises foster care, group homes and

residential treatment facilities.

Detention—the juvenile equivalent of jail, short-term incarceration before trial or for up to 8 days as a consequence for a probation violation.

Detention Hearing—the hearing before a juvenile can be held in detention until his/her trial.

Detention Staff—Detention staff are responsible for supervising youth in juvenile detention. They must provide you with basic needs and a safe, secure, and clean facility. Detention staff may also discipline youth.

Disposition—the sentence or consequence in a juvenile case is called the disposition. See “sentence.”

District Attorney—also called the DA or the prosecutor. The DA is an attorney who represents “the people.” The DA’s main goal is to prove that you did the crime or probation violation you are charged with. Often, the DA will try to get the most serious possible charge or sentence. In some limited cases, the DA has the power to decide if you should be tried as an adult. The DA also has the power to drop or reduce the charges against you.

Electronic Monitoring—may be used instead of detention—an electronic anklet monitors your whereabouts.

Evidence—proof presented in court, can include testimony of witnesses and exhibits.

Expungement of Record—a way to erase your record so that you will be able to say you do not have a record.

Formal Accountability Agreement—like diversion, an agreement to deal with your charge(s) without a conviction.

Found within the jurisdiction of the juvenile court—you have been found guilty of committing a crime.

Guilty plea—saying in court that you committed a crime you are charged with and do not want a trial.

Informal Resolution—handling your case without a trial, conviction or sentence.

Intoxicants—any drug, alcohol or other chemical that would make you “high.”

Judge—Also called a referee. The judge makes most of the final decisions in your case, including whether you are guilty, what the disposition (sentence) will be and when you can be released. ALWAYS show the judge respect—even if you are angry or don’t agree with what the judge says. Call the judge “your honor.” Look the judge in the eye.

Juvenile Correctional Facility—a prison for juveniles.

Juvenile Court Counselor—Also called JCC, probation officer or PO, the JCC is an employee of the county assigned to your case to promote the safety of the community and to help you with services you need to be rehabilitated.

Juvenile Detention—a jail for juveniles, usually for juveniles awaiting a court hearing or serving time for a probation violation.

Negotiate—try to come to a compromise.

Plea—the answer to a charge of criminal conduct—generally “guilty” or “not guilty.”

Plea negotiation—also called plea bargaining, where your attorney and the district attorney work out a guilty plea to a charge or probation violation that is agreeable to and benefits you, and is acceptable to the district attorney because it settles the case and there is no need for a trial.

Police—It is a police officer’s job to protect the public, which means they are supposed to protect you too. It is also the

officer's job to catch people who break the law. When an officer picks you up, they can either 1) let you go; 2) give you a warning or a citation and let you go; or 3) take you to juvenile detention.

When talking to a police officer, remember **ANYTHING YOU SAY WILL BE USED AGAINST YOU.**

Preponderance of the evidence—more likely than not that something happened.

Probable cause—based on evidence, there is some legitimate reason to think you violated probation or committed a crime. There must be probable cause for you to be held in detention.

Probation violation—conduct against the rules of probation.

Rehabilitate—get you healthy or give you the tools to make better choices.

Relief from sex offender registration—a legal process to end the requirement that you register as a sex offender.

Residential treatment—a program where you live as well as do treatment.

Restitution—money owed to a victim because of damage to property, injuries, etc.

Sentence—the punishment set by the judge after conviction for a criminal act—usually incarceration, probation or a fine. In Juvenile Court this is called disposition.

Sex offender registry—a database that stores your information if you are convicted of a sex offense. The sex offender registry can be accessed by members of the public. Sex offenders are required to regularly confirm their addresses and other information in the sex offender registry.

Subpoena—a legal document that requires witnesses to come to court to testify

Suspect—a person the police believe committed or is involved in a crime.

UA or Urine Analysis—a “pee test” to look for evidence that you’ve been drinking or using drugs.

Waive your right to trial—give up your right to trial.

Warrant—the court gives the police the power to arrest you.

IMPORTANT!

- **Ask for an attorney (also called a lawyer or legal counsel)**
- **Do not talk about your case to anyone except your attorney**
- **Remember — your attorney works for you**